

SUBJECT: Creating the Texas Rail Relocation and Improvement Fund

COMMITTEE: Transportation — committee substitute recommended

VOTE: 5 ayes — Krusee, Phillips, Hamric, Casteel, Hill
0 nays
4 absent — Callegari, Deshotel, Flores, West

WITNESSES: For — Ron Olson, Union Pacific Railroad; Nelson W. Wolff, Bexar County Commissioners Court
Against — None
On — Robert Nichols, Texas Transportation Commission

DIGEST: CSHB 1546 would create the statutory framework for the establishment of the Texas Rail Relocation and Improvement Fund. The Texas Transportation Commission (TTC) would administer this revolving fund to finance the relocation, construction, reconstruction, acquisition, improvement, and expansion of certain rail facilities.

The bill would enable TTC to issue bonds pledged against the fund to be repaid from the fund balance. Bond proceeds could be used for refunding obligations and related credit agreements, creating reserves, and paying issuance costs and interests on bonds. The maturity period of bonds issued could not be more than 30 years. The TTC would be able to create sub-accounts within the fund as the commission deemed appropriate.

Bonds issued against the fund would be in the interest of improving mobility and public safety around the state. They could be issued to finance projects for state-owned rail facilities or to partially fund projects for privately owned rail facilities. Specifically, the fund would be used for:

- the conversion of freight rail lines to commuter rail lines;
- the relocation of freight rail lines carrying hazardous materials through urban areas;

- the improvement of air quality; or
- the expansion of economic opportunity.

Before issuing bonds, the TTC would have to develop a strategic plan outlining the proposed use of funds and potential benefits to the state. The TTC could limit the uses of funds depending on available balances but could not expand its uses beyond those specified in the bill.

Both short- and long-term bonds would require certification from the Comptroller's Office to ensure that the amount of money in the fund was sufficient to repay the principal and interest on the proposed obligations in a particular year. TTC would have the authority to impose further restrictions regarding bond issuance and consult with an independent consultant in addition to the comptroller. If approved by the attorney general, obligations and credit agreements issued in conjunction with the fund would be considered incontestable.

The Legislature would authorize TTC to guarantee payment of any obligations by pledging the state's full faith and credit if dedicated revenue was insufficient to cover the payment. If TTC took such action and dedicated revenue was insufficient, the first revenue deposited into the state's treasury not otherwise dedicated constitutionally would be appropriated to pay principal and interest on the obligations, less any fund amount available for payment. The fund would be subject to the same investment rules as are applied to the State Highway Fund.

The bill would take effect upon approval of a constitutional amendment proposed by the 79th Legislature authorizing the creation of the Texas Rail Relocation and Improvement Fund.

**SUPPORTERS
SAY:**

CSHB 1546 would alleviate traffic congestion and improve highway safety by financing the relocation and construction of rail lines in Texas. The current congestion crisis on Texas highways stems in part from the inability of railroads to keep up with increasing demands for the transport of freight by rail. Largely as a result of the North American Free Trade Agreement (NAFTA), the quantity of freight shipped through Texas has increased substantially in recent years and is expected to continue to grow dramatically. Concurrently, according to TxDOT, the number of vehicles in Texas increased by more than 60 percent — from 11.7 million to 18.9 million — between 1980 and 2003. Allowing for the shipment of more goods by train would decrease the number of trucks traveling on

highways, which would decrease congestion and potentially dangerous truck traffic.

Freight trains are a more environmentally friendly method of transporting goods than trucks, emitting less pollution per ton/mile. Reduced emissions would aid Texas in bringing non-attainment areas into compliance with federal air quality standards. In addition, the relocation of railroads outside of cities would prevent the shipment of hazardous materials through densely populated areas. Last year, a toxic waste spill in San Antonio killed five people and injured 50.

Right-of-way obtained by relocating railroads out of urban areas could be used for the placement of commuter rail lines or new highways, both of which would decrease traffic congestion. The acquisition of right-of-way in urban areas has become extremely costly in large Texas cities like Houston and Dallas. TxDOT would be able to place commuter rail lines on existing tracks while avoiding the astronomical costs associated with acquiring right-of-way in urban areas. The Union Pacific track between Georgetown and San Antonio that straddles MoPac Blvd. in Austin would be one location for a possible commuter rail line if the heavy freight traffic could be relocated to an area outside of the urban centers.

As a result of the capital intensive nature of the construction of rail lines, it would be difficult for the state to finance such a large scale project without outside assistance. Funding rail relocation through a public-private partnership would not require the state to spend enormous amounts of general revenue on the project. TxDOT already has entered into a public-private partnership in the construction of the Trans-Texas Corridor, in which a Spanish company has agreed to finance the construction and maintenance of the corridor in exchange for revenues collected from tolls on the project over the next 50 years. Similarly, in a public-private partnership for rail relocation, a private company could finance the construction and maintenance of the rail lines in exchange for the opportunity to profit from future economic activity along the railways.

Relocating rail lines would boost the state's economy by encouraging investment, improving efficiency, and preventing existing businesses from moving out of the state. With a revamped rail system, investors would look to Texas as a prime location through which to ship their goods. Also, freight would be delivered much faster if freight rail lines did not pass through congested cities, making multiple stops at railroad crossings.

Texas has already begun to lose important businesses as a result of inadequate rail lines. The state should act soon in order to prevent the loss of more businesses.

OPPONENTS
SAY:

Railroad relocation should be left entirely to the private sector. It is not the responsibility of the state to finance construction of additional freight rail lines, particularly when debt service on the bonds issued would cost the state \$87.5 million per year beginning in fiscal 2007.

TxDOT deals primarily with state highways and has very little authority over railroad matters, which would necessitate a constitutional amendment to make this bill effective. TxDOT should use its resources to carry out its primary functions that relate to the planning, construction, and maintenance of the state's highways. The railroad industry is no longer a state-regulated industry and government should not involve itself in that industry's investment decisions.

NOTES:

The committee substitute differs from the original bill in that the substitute, in the interests of relieving congestion, would provide for the conversion of freight rail lines to commuter rail lines and, in the interests of public safety, would provide for the relocation freight trains out of urban areas.

HB 1546 is the enabling legislation for HJR 54 by McClendon, a proposed constitutional amendment that would be submitted to voters on November 8, 2005. HJR 54 was reported favorably, as substituted, by the Transportation Committee on April 8, and has been set on today's Constitutional Amendments Calendar.

The companion measures, SB 1712 and SJR 41, both by Staples, are pending in the Senate Transportation and Homeland Security Committee.

HB 2660 by Krusee, which is identical to HB 1546, was reported favorably by the Transportation Committee on April 7. HB 2660 is the enabling legislation for HJR 81 by Krusee, also reported favorably on April 7.

According to the fiscal note, debt service on bonds issued from the rail fund would cost about \$113 million in general-revenue related funds in fiscal 2006-07 and approximately \$87.5 million in each subsequent fiscal year for debt service through fiscal 2010, assuming that \$1 billion in bonds were issued.